

The Honorable Merrick Garland
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530

Dear Attorney General Garland:

Thank you for your department's commitment to "vigorously safeguard all Arizonans' rights to freely and lawfully cast their ballot during the election."¹ While we appreciate these efforts, we remain gravely concerned with frequent and escalating incidents of voter intimidation at drop boxes across Arizona, the harassment and threats of violence directed at local and state election officials, and continuing threats of interference in election procedures by some Arizona elected officials that are already occurring. These actions threaten voter's right to cast their ballots free of intimidation, upend the proper administration of our elections, and undermine confidence in our voting system. We urge the Department of Justice to immediately take the additional steps to ensure compliance with federal election and civil rights laws: (1) expeditiously provide monitors at polling locations, drop boxes and tabulation centers where incidents of harassment or unlawful interference have occurred, have been reported or are likely to occur; (2) investigate the coordinated attempts to intimidate and harass Arizona voters at drop boxes and other locations; and, (3) investigate the numerous, unprecedented threats to election workers and officials in Arizona.

In the last month, there have been organized groups engaging in activities that likely constitute intimidation and harassment of voters, repeated reports of threats to election officials, and even elected officials stating their intent to violate Arizona law and procedure:

- Currently, a group of armed, masked individuals stating they are associated with the organization Clean Election USA, are monitoring polling locations in Phoenix and Mesa, Arizona, filming and photographing persons who drop off their ballots, taking pictures of their license plates, and harassing voters.²
- Already, six cases of alleged voter intimidation at drop box locations in Arizona have been referred to your offices by Arizona Secretary of State Katie Hobbs.³ Five of the six complaints occurred outside ballot drop boxes in Phoenix and Mesa, Arizona including an incident where 5 or 6 men approached a couple in their 70s and took pictures of their

¹ <https://www.justice.gov/opa/pr/justice-department-releases-information-efforts-protect-right-vote-prosecute-election-fraud>

² Jonathan J. Cooper, *Arizona sheriff steps up security around ballot drop boxes*, Washington Post (October 24, 2022), https://www.washingtonpost.com/politics/arizona-sheriff-steps-up-security-around-ballot-drop-boxes/2022/10/24/8135b5e0-53fc-11ed-ac8b-08bbfab1c5a5_story.html.

³ Katie Hobbs, "Sec. Hobbs refers additional reports of voter intimidation, election worker harassment in Arizona to law enforcement." <https://azsos.gov/about-office/media-center/press-releases/1474>

license plate and car.⁴ Two groups in Yavapai County, the Yavapai County Preparedness Team and the Lions of Liberty, announced plans to monitor ballot drop boxes in Yavapai County.⁵ According to organizers, they are coordinating with Sheriff David Rhodes.⁶

- Pinal County Sheriff Mark Lamb, a former board member of the Oath Keepers militia, and founder of Protect America Now, is an adherent to the “constitutional sheriff movement ... which was built around a radical ideology that the sheriff’s power within his or her county is superseded by no state or federal government entity and is guided by the sheriff’s interpretation of the U.S. Constitution.”⁷ Sheriff Lamb has made comments declaring that “[w]e’re gonna [sic] make sure that we have election integrity this year” and claiming “[s]heriffs are going enforce the law ... we will not let what happened in 2020.”⁸
- Numerous election officials, including Secretary of State Katie Hobbs⁹, Maricopa County Recorder Stephen Richer¹⁰, Maricopa County Supervisor Clint Hickman¹¹, the former Yavapai County recorder and election director¹², as well as numerous other state and county election officials¹³, have been subjected to harassments and threats. The threats have become so frequent and severe that many election officials have chosen to resign.
- On October 24, 2022, the Cochise County Board of Supervisors voted to hand-count all votes cast under its jurisdiction, in violation of Arizona law, and against the counsel of their own county attorney who repeatedly advised them the proposal was unlawful.¹⁴

⁴ Libby Cathey and Ali Dukakis, “Cases of alleged Arizona voter intimidation referred to DOJ”, ABC News (October 25, 2022), <https://abcnews.go.com/Politics/cases-alleged-arizona-voter-intimidation-referred-doj/story?id=92054635>.

⁵ Elliot Polakoff, *Yavapai County groups face uncertain future surrounding ballot box monitoring*, AZFamily.com (October 14, 2022), <https://www.azfamily.com/2022/10/15/yavapai-county-groups-face-uncertain-future-surrounding-ballot-box-monitoring/>.

⁶ Isaac Stone Simonelli, *Experts warn of extremist push to expand sheriffs’ role in elections*, Arizona Mirror (October 24, 2022), <https://www.azmirror.com/2022/10/24/experts-warn-of-extremist-push-to-expand-sheriffs-role-in-elections/>.

⁷ *Id.*

⁸ Jessica Pishko, “The ‘Big Lie’ messengers who carry a badge and gun”, Arizona Mirror (August 26, 2022), <https://www.azmirror.com/2022/08/26/the-big-lie-messengers-who-carry-a-badge-and-gun/>.

⁹ Bob Christie, *FBI: Massachusetts man threatened Arizona election official*, AP News (July 29, 2022), <https://apnews.com/article/2022-midterm-elections-biden-boston-arizona-donald-trump-768d6131f09c556d9e98785da1e15502>.

¹⁰ Libby Cathey, *Arizona election official reacts to man facing federal charges for allegedly threatening him*, ABC News (August 18, 2022), <https://abcnews.go.com/Politics/arizona-election-official-reacts-man-facing-federal-charges/story?id=88545854>.

¹¹ Jose R. Gonzalez, “We’re going to hang you’: Man charged in threat against Arizona election officials”, Arizona Republic (October 6, 2022), <https://www.azcentral.com/story/news/politics/elections/2022/10/06/man-charged-threat-to-kill-maricopa-county-state-election-officials/8199649001/>.

¹² *Top election officials in Arizona county leave amid threats*, AP News (July 1, 2022), <https://apnews.com/article/elections-arizona-donald-trump-government-and-politics-4d69197c11552267dbd9aefaf1018da2>.

¹³ *Id.*

¹⁴ Sarah Lapidus, *Despite warnings of legal consequences, Cochise County supervisors vote for hand count of ballots*, Arizona Republic (October 25, 2022), <https://www.azcentral.com/story/news/politics/elections/2022/10/24/arizona-cochise-county-supervisors-approve-hand-count-election-ballots/10593843002/>.

These unprecedented and systematic attacks on the rights of voters, the safety of election officials, and the validity of our election procedures requires a swift and concerted response from Department of Justice officials to protect the rights of Arizona voters.

Voter intimidation is a federal crime prohibited by several different sections of the U.S. Code. Although each statute is slightly different, the general principle is that people are prohibited from intimidating or harming others to get them to vote a particular way.¹⁵ The Civil Rights Act of 1957 makes it illegal to intentionally intimidate voters.¹⁶ Section 11 (b) of the Voting Rights Act of 1965 likewise prohibits voter intimidation and—crucially—does not require that defendants acted with intent to intimidate.¹⁷ The Ku Klux Klan Act of 1871 (“Klan Act”) also makes it illegal to engage in a conspiracy to injure or intimidate voters, and also allows for, among other things, the recovery of money damages for such conspiracies.¹⁸ Federal law also prohibits threats and intimidation outside of just the polls.¹⁹ In certain instances, courts have prohibited political organizations from engaging in activities constituting voter intimidation.²⁰

We urge you to take all necessary steps to protect the rights of Arizona voters to cast their ballot free of intimidation, ensure that federal law is properly followed by elected officials, and investigate the numerous threats to elections officials for simply fulfilling their duty to our democracy. Armed individuals stationed outside ballot boxes send a very clear message – intimidation. These individuals should be made aware now of any potential prosecution for violation of federal voter intimidation laws. A failure to actively intervene and monitor election procedures in Arizona and work with local election officials to enforce state²¹ and federal law, inform voters of their rights and individuals of potential violations of law could lead to the fostering of greater conspiracies, growing attempts to intimidate voters, and escalating threats to our voting rights and systems.

Respectfully,

¹⁵ See, e.g., 52 U.S. Code Section 25011(1); 18 U.S. Code Sections 241, 242, 245(b)(1)(A), 594, and 610 (criminal provisions); 52 U.S. Code Sections 10101(b) and 10307(b) (civil provisions).

¹⁶ See Civil Rights Act of 1957, 52 U.S.C. § 10101(b).

¹⁷ See Voting Rights Act of 1965, 52 U.S.C. § 10307(b).

¹⁸ See 42 U.S.C. § 1985(3) clauses 3 & 4.

¹⁹ U.S. Code Sections 10101(b) and 10307(b).

²⁰ See, e.g., *U.S. v. North Carolina Republican Party*, No. 9161616Civ65F (E.D.N.C. 1992).

²¹ <https://azsos.gov/elections/about-elections/guidance-voting-location-conduct>